

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Robert & Jennifer Thelen,
Appellants,

v.

Dallas County Board of Review,
Appellee.

ORDER

Docket No. 13-25-0212
Parcel No. 16-11-283-004

On December 17, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants Robert and Jennifer Thelen were self-represented. County Attorney Wayne M. Reisetter is counsel for the Board of Review. County Assessor Steve Helm represented it at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Robert and Jennifer Thelen are the owners of residentially classified property located at 7767 Cody Drive, West Des Moines, Iowa. The Thelens' property is a two-story, frame home built in 2001 with 2437 square feet of above-grade finish. There is also a full, walkout basement with 1100 square feet of living-quarter finish, an open porch, 995 square feet of deck area, and a three-car attached garage. The site is 0.22 acres.

The January 1, 2013, assessed value was \$283,150. The record does not provide the allocation between land and improvements. The Thelens protested to the Board of Review claiming the property was inequitably assessed and over-assessed under Iowa Code section 441.37(1)(a)(1,2). They asserted the correct value was \$264,656, allocated as \$50,000 in land value and \$214,656 in improvement

value. The Board of Review reduced the assessed value to \$278,770, allocated as \$50,000 in site value and \$228,770 in improvement value. The Thelens then appealed to this Board reasserting their claims.

Robert Thelen testified their property assessment increased \$13,000 in 2013, whereas the rest of the immediate neighborhood did not see this same level of increase. He asserts his property is a Rottlund Home, “cookie cutter” design, and very similar to the ten properties they submitted as equity comparables.

The Thelens identified ten properties and adjusted them for differences. (Exhibit 1). However, they stated they used cost-based adjustments and applied the adjustments to the assessed value, rather than sale prices. We note only three of the ten properties offered by the Thelens for comparison have sold in the either 2012 or 2013. After adjustments, the ten properties had adjusted assessed values between roughly \$257,500 and \$276,500, with an average of roughly \$265,000.

Thelen also provided interior photos of two of the properties that have sold. They point to photos of 7750 Cody Drive from Zillow.com. (Exhibit 2). Robert Thelen explained the interior photos show significant hardwood flooring, updated kitchen counters, and an upgraded fireplace facade. Thelen testified that to his knowledge the updates took place roughly three years ago. This home sold in July 2012 for \$280,000. The Thelens assert that even with the upgrades this home has over theirs, its assessment of \$264,310 is much less than their \$278,770 assessment.

They also provided interior photos for 7789 Cody Drive, which shows upgraded kitchen counters and a wood floor in the sunroom. This home sold in September 2012 for \$269,000 and its 2013 assessment was \$265,750. Robert Thelen also pointed out that the assessment for this property increased in 2013 because the basement finish, which had previously been unreported, was picked up in the assessment after the sale.

The Thelens assert some of the properties they submitted as comparable properties may not have pulled permits for basement finish or upgraded features, whereas they have always been honest with any updates they completed on their home. Jennifer Thelen testified that many properties in the

area have completed significant upgrades including doubling their kitchen sizes, updating cabinetry, counters, flooring, fireplace facades, and so on. When this Board questioned her about the updates she knew about of the neighboring properties, she admitted many of them did not pull permits when they were upgraded or remodeled. While we note it would be unlikely a permit would be needed for minor updates such as counters or facades, more significant remodeling such as kitchens or basement finishes would likely require permits. If the updates to the Thelens' comparable properties were completed without permits, the assessor's office would be unaware of the upgrades. Ultimately, the Thelens believe it is unfair for their property assessment to be higher than other similar properties in the area; however, many of the similar properties have upgrades that may not be reflected in their assessments.

County Assessor Steve Helm questioned Robert Thelen about the adjustments he made to his comparable properties. (Exhibit 1). For instance, Helm noted the Thelens did not make any adjustments for differences between a walkout lower level and properties that only have egress windows. Robert Thelen conceded at hearing that a \$5000 adjustment for a walkout feature would be reasonable. Additionally, two of the properties the Thelens listed as walkouts actually only had egress windows. Making an adjustment for this element alone would change the average adjusted assessed value of all of Thelens' comparable properties to roughly \$267,000; however, we note it is not proper appraisal methodology to adjust assessed values. The proper method adjusts sale prices.

Helm also questioned Robert Thelen about his deck that is approximately 1000 square feet. Thelen did not make adjustments for this element to any of his comparable properties; many of which had more standard size decks of roughly 120 to 168 square feet. Helm explained the deck feature of the subject property was a significant factor in the assessed value, compared to the neighboring properties.

The following grid takes the three sales submitted by the Thelen and adjusts the sales using the cost-based adjustments employed by the Thelens. Based on the testimony, both parties agreed the walkout feature should be adjusted. An estimated value for that element was determined to be roughly

\$5000. There were no adjustments made for the differences in the deck size, although as seen in the grid, the subject's amenities are superior to the sales.

	Subject	7708 Cody Dr		7750 Cody Dr		7789 Cody Dr	
Sale Price	N/A		\$245,000		\$280,000		\$269,000
Date of Sale	N/A	Feb-13		Jul-12		Sep-12	
Site Size	9779	16,046		10,275		9525	
Age	12	14		14		14	
Size	2437	2362	\$3000	2282	\$6200	2426	\$440
Walkout	Yes	No	\$5000	No	\$5000	Yes	
Basement Finish	1100	900	\$6000	900	\$6000	900	\$6000
Deck/Patio	995/0	120/0		168/0		168/216	
			\$259,000		\$297,200		\$275,440

Even without adjusting the sales for the subject's superior deck amenity, the adjusted sales range between \$259,000 and \$297,200. The subject's assessed value of \$278,770 is within this range and near the median. The Board of Review's own cost-based adjustments to these sales resulted in a range between \$276,568 and \$294,455. (Exhibit B). This evidence does not support an over-assessment claim.

An equity analysis typically compares *prior year sale prices* (2012 sales in this case) or established market values to the *current year's assessment* (2013 assessment) to determine the assessment/sales-ratio. A 2013 sale would not be used for a January 1, 2013 equity analysis; therefore, we will only consider the 2012 sales submitted by the Thelens.

Address	2013 AV	Gross Living Area	Sales Price	Sale Date	Sale Ratio
Subject	\$278,770	2437	N/A	N/A	N/A
7750 Cody Dr	\$264,310	2282	\$280,000	Jul-12	0.94
7789 Cody Dr	\$265,750	2426	\$269,000	Sep-12	0.99

The 2012 sales offered by the Thelens have an assessment/sales-ratio of 0.94 and 0.99. A ratio less than 1.00 indicates an assessed value lower than the sales price; whereas, a ratio greater than 1.00 indicates the assessed value is higher than the sales price. These sales indicate properties are under-

assessed between 1% to 6%, and 3.5% on average. However, the Thelens failed to provide an opinion of the subject's correct fair market value to develop a ratio for the subject property and complete the analysis.

Lastly, the Thelens did not assert that the assessor applied an assessing method in a non-uniform manner to similarly situated or comparable properties.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Thelens offered ten equity comparables, however only three recently sold. An equity analysis typically compares *prior year sale prices* (2012 sales in this case) or established market values to the *current year's assessment* (2013 assessment) to determine the assessment/sales-ratio. An assessment/sales-ratio analysis of the two 2012 sales does not indicate inequity. Further, the Thelens did not make any assertions that the assessor failed to apply an assessing method uniformly to similarly situated or comparable properties. Thus, their evidence did not prove inequity under either legal test.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Thelens included three sales of similar properties in their evidence. They adjusted the properties for minor differences, using cost-based adjustments applied to the assessed value. Proper methodology would be to adjust the sale prices of the comparable properties. Further, the Thelens and Helm agreed that the walkout feature of the subject property had an estimated value of \$5000. Using the adjustments determined by Thelen, adding an adjustment for the walkout, and applying the adjustments to the sales prices of the comparable properties, the subject's assessed value was within the adjusted range and very near the median. Moreover, this analysis did not adjust for the

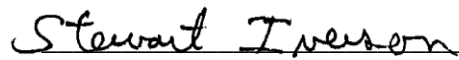
subject's significant deck amenity compared to the sales. We find this evidence does not support the Thelens' claim the subject property is over-assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of the Robert and Jennifer Thelen's property located at 7767 Cody Drive, West Des Moines, Iowa, as set by the Dallas County Board of Review is affirmed.

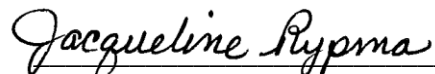
Dated this 16th day of January, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Robert and Jennifer Thelen
7767 Cody Drive
West Des Moines, Iowa 50266
APPELLANTS

Wayne Reisetter
County Attorney
207 N 9th Street, Suite A
Adel, Iowa 50003
ATTORNEY FOR APPELLEE

Steve Helm
801 Court Street, Room 103
Adel, IA 50003
ASSESSOR